

AMENDED IN SENATE JUNE 10, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1860

**Introduced by Assembly Member Tom Berryhill
(Coauthor: Assembly Member Villines)**

February 12, 2010

An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1860, as amended, Tom Berryhill. Alcoholic beverages: places of consumption.

Existing law generally prohibits the sale or consumption of alcoholic beverages at a public schoolhouse or any grounds thereof. Existing law provides that this prohibition does not apply if the alcoholic beverage is possessed, consumed, or sold, pursuant to a license, for an event during the weekend or at other times when pupils are not on the grounds of an overnight retreat facility owned and operated by a county office of education in a county of the 18th or 20th class.

This bill would expand the exception to the prohibition to allow the possession, consumption, or sale of alcoholic beverages at such a retreat facility that is owned or operated by a county office of education ~~or independent school district~~ in a county of any class *or by a school district.*

This bill would incorporate additional changes in Section 25608 of the Business and Professions Code proposed by AB 1643, to be operative only if AB 1643 and this bill are both enacted and become effective on

or before January 1, 2011, both bills amend Section 25608, and this bill is enacted after AB 1643.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25608 of the Business and Professions
2 Code is amended to read:

3 25608. (a) Every person who possesses, consumes, sells, gives,
4 or delivers to any other person, any alcoholic beverage in or on
5 any public schoolhouse or any of the grounds~~thereof of the~~
6 *schoolhouse*, is guilty of a misdemeanor. This section does not,
7 however, make it unlawful for any person to acquire, possess, or
8 use any alcoholic beverage in or on any public schoolhouse, or on
9 any grounds~~thereof of the schoolhouse~~, if any of the following
10 applies:

11 (1) The alcoholic beverage possessed, consumed, or sold,
12 pursuant to a license obtained under this division, is wine that is
13 produced by a bonded winery owned or operated as part of an
14 instructional program in viticulture and enology.

15 (2) The alcoholic beverage is acquired, possessed, or used in
16 connection with a course of instruction given at the school and the
17 person has been authorized to acquire, possess, or use it by the
18 governing body or other administrative head of the school.

19 (3) The public schoolhouse is surplus school property and the
20 grounds~~thereof of the schoolhouse~~ are leased to a lessee~~which~~
21 *that* is a general law city with a population of less than 50,000, or
22 the public schoolhouse is surplus school property and the grounds
23 ~~thereof of the schoolhouse~~ are located in an unincorporated area
24 and are leased to a lessee~~which that~~ is a civic organization, and
25 the property is to be used for community center purposes and no
26 public school education is to be conducted~~thereon on the property~~
27 by either the lessor or the lessee and the property is not being used
28 by persons under the age of 21 years for recreational purposes at
29 any time during which alcoholic beverages are being sold or
30 consumed on the premises.

1 (4) The alcoholic beverages are acquired, possessed, or used
2 during events at a college-owned or college-operated veterans
3 stadium with a capacity of over 12,000 people, located in a county
4 with a population of over ~~six million~~ 6,000,000 people. As used
5 in this ~~subdivision~~ *paragraph*, “events” mean football games
6 sponsored by a college, other than a public community college, or
7 other events sponsored by noncollege groups.

8 (5) The alcoholic beverages are acquired, possessed, or used
9 during an event not sponsored by any college at a performing arts
10 facility built on property owned by a community college district
11 and leased to a nonprofit organization ~~which~~ *that* is a public benefit
12 corporation formed under Part 2 (commencing with Section 5110)
13 of Division 2 of Title 1 of the Corporations Code. As used in this
14 ~~subdivision~~ *paragraph*, “performing arts facility” means an
15 auditorium with more than 300 permanent seats.

16 (6) The alcoholic beverage is wine for sacramental or other
17 religious purposes and is used only during authorized religious
18 services held on or before January 1, 1995.

19 (7) The alcoholic beverages are acquired, possessed, or used
20 during an event at a community center owned by a community
21 services district and the event is not held at a time when students
22 are attending a public school-sponsored activity at the center.

23 (8) The alcoholic beverage is wine ~~which~~ *that* is acquired,
24 possessed, or used during an event sponsored by a community
25 college district or an organization operated for the benefit of the
26 community college district where the college district maintains
27 both an instructional program in viticulture on no less than five
28 acres of land owned by the district and an instructional program
29 in enology, which includes sales and marketing.

30 (9) The alcoholic beverage is acquired, possessed, or used at a
31 professional minor league baseball game conducted at the stadium
32 of a community college located in a county with a population of
33 less than 250,000 inhabitants, and the baseball game is conducted
34 pursuant to a contract between the community college district and
35 a professional sports organization.

36 (10) The alcoholic beverages are acquired, possessed, or used
37 during events at a college-owned or college-operated stadium or
38 other facility. As used in this ~~subdivision~~ *paragraph*, “events”
39 means fundraisers held to benefit a nonprofit corporation that has
40 obtained a license pursuant to this division for the event. “Events”

1 does not include football games or other athletic contests sponsored
2 by any college or public community college. This ~~subdivision~~
3 ~~paragraph~~ shall not apply to any public education facility in which
4 any grade from kindergarten to grade 12, inclusive, is schooled.

5 ~~(11) The alcoholic beverages are possessed, consumed, or sold,~~
6 ~~pursuant to a license obtained under this division, for an event~~
7 ~~during the weekend or at other times when pupils are not on the~~
8 ~~grounds of an overnight retreat facility owned and operated by a~~
9 ~~county office of education or by a independent school district.~~

10 *(11) The alcoholic beverages are possessed, consumed, or sold,*
11 *pursuant to a license, permit, or authorization obtained under this*
12 *division, for an event held at an overnight retreat facility owned*
13 *and operated by a county office of education or a school district*
14 *at times when pupils are not on the grounds.*

15 (12) The grounds of the public schoolhouse on which the
16 alcoholic beverage is acquired, possessed, used, or consumed is
17 property that has been developed and is used for residential
18 facilities or housing that is offered for rent, lease, or sale
19 exclusively to faculty or staff of a public school or community
20 college.

21 (13) The grounds of a public schoolhouse on which the alcoholic
22 beverage is acquired, possessed, used, or consumed is property of
23 a community college that is leased, licensed, or otherwise provided
24 for use as a water conservation demonstration garden and
25 community passive recreation resource by a joint powers agency
26 comprised of public agencies, including the community college,
27 and the event at which the alcoholic beverage is acquired,
28 possessed, used, or consumed is conducted pursuant to a written
29 policy adopted by the governing body of the joint powers agency
30 and no public funds are used for the purchase or provision of the
31 alcoholic beverage.

32 (14) The alcoholic beverage is beer or wine acquired, possessed,
33 used, sold, or consumed only in connection with a course of
34 instruction, sponsored dinner, or meal demonstration given as part
35 of a culinary arts program at a campus of a California community
36 college and the person has been authorized to acquire, possess,
37 use, sell, or consume the beer or wine by the governing body or
38 other administrative head of the school.

39 (15) The alcoholic beverages are possessed, consumed, or sold,
40 pursuant to a license or permit obtained under this division for

1 special events held at the facilities of a public community college,
2 located in a county of the first class or a county of the fourth class,
3 during the special event. As used in this ~~subdivision~~ *paragraph*,
4 “special event” means festivals, shows, private parties, concerts,
5 theatrical productions, and other events held on the premises of
6 the public community college, pursuant to a license or permit, and
7 for which the principal attendees are members of the general public
8 or invited guests and not students of the public community college.

9 (b) Any person convicted of a violation of this section shall, in
10 addition to the penalty imposed for the misdemeanor, be barred
11 from having or receiving any privilege of the use of public school
12 property which is accorded by Article 2 (commencing with Section
13 82537) of Chapter 8 of Part 49 *of Division 7* of the Education Code.

14 *SEC. 1.5. Section 25608 of the Business and Professions Code*
15 *is amended to read:*

16 25608. (a) Every person who possesses, consumes, sells,
17 gives, or delivers to any other person, any alcoholic beverage in
18 or on any public schoolhouse or any of the grounds ~~thereof of the~~
19 *schoolhouse*, is guilty of a misdemeanor. This section does not,
20 however, make it unlawful for any person to acquire, possess, or
21 use any alcoholic beverage in or on any public schoolhouse, or on
22 any grounds ~~thereof of the schoolhouse~~, if any of the following
23 applies:

24 (1) The alcoholic beverage possessed, consumed, or sold,
25 pursuant to a license obtained under this division, is wine that is
26 produced by a bonded winery owned or operated as part of an
27 instructional program in viticulture and enology.

28 (2) The alcoholic beverage is acquired, possessed, or used in
29 connection with a course of instruction given at the school and the
30 person has been authorized to acquire, possess, or use it by the
31 governing body or other administrative head of the school.

32 (3) The public schoolhouse is surplus school property and the
33 grounds ~~thereof of the schoolhouse~~ are leased to a lessee ~~which~~
34 *that* is a general law city with a population of less than 50,000, or
35 the public schoolhouse is surplus school property and the grounds
36 ~~thereof of the schoolhouse~~ are located in an unincorporated area
37 and are leased to a lessee ~~which~~ *that* is a civic organization, and
38 the property is to be used for community center purposes and no
39 public school education is to be conducted ~~thereon on the property~~
40 by either the lessor or the lessee and the property is not being used

1 by persons under the age of 21 years for recreational purposes at
2 any time during which alcoholic beverages are being sold or
3 consumed on the premises.

4 (4) The alcoholic beverages are acquired, possessed, or used
5 during events at a college-owned or college-operated veterans
6 stadium with a capacity of over 12,000 people, located in a county
7 with a population of over ~~six million~~ 6,000,000 people. As used
8 in this ~~subdivision~~ *paragraph*, “events” mean football games
9 sponsored by a college, other than a public community college, or
10 other events sponsored by noncollege groups.

11 (5) The alcoholic beverages are acquired, possessed, or used
12 during an event not sponsored by any college at a performing arts
13 facility built on property owned by a community college district
14 and leased to a nonprofit organization ~~which~~ *that* is a public benefit
15 corporation formed under Part 2 (commencing with Section 5110)
16 of Division 2 of Title 1 of the Corporations Code. As used in this
17 ~~subdivision~~ *paragraph*, “performing arts facility” means an
18 auditorium with more than 300 permanent seats.

19 (6) The alcoholic beverage is wine for sacramental or other
20 religious purposes and is used only during authorized religious
21 services held on or before January 1, 1995.

22 (7) The alcoholic beverages are acquired, possessed, or used
23 during an event at a community center owned by a community
24 services district and the event is not held at a time when students
25 are attending a public school-sponsored activity at the center.

26 (8) The alcoholic beverage is wine ~~which~~ *that* is acquired,
27 possessed, or used during an event sponsored by a community
28 college district or an organization operated for the benefit of the
29 community college district where the college district maintains
30 both an instructional program in viticulture on no less than five
31 acres of land owned by the district and an instructional program
32 in enology, which includes sales and marketing.

33 (9) The alcoholic beverage is acquired, possessed, or used at a
34 professional minor league baseball game conducted at the stadium
35 of a community college located in a county with a population of
36 less than 250,000 inhabitants, and the baseball game is conducted
37 pursuant to a contract between the community college district and
38 a professional sports organization.

39 (10) The alcoholic beverages are acquired, possessed, or used
40 during events at a college-owned or college-operated stadium or

1 other facility. As used in this ~~subdivision~~ *paragraph*, “events”
2 means fundraisers held to benefit a nonprofit corporation that has
3 obtained a license pursuant to this division for the event. “Events”
4 does not include football games or other athletic contests sponsored
5 by any college or public community college. This ~~subdivision~~
6 *paragraph* shall not apply to any public education facility in which
7 any grade from kindergarten to grade 12, inclusive, is schooled.

8 (11) The alcoholic beverages are possessed, consumed, or sold,
9 pursuant to a license, *permit, or authorization* obtained under this
10 division, for an event ~~during the weekend or at other times when~~
11 ~~pupils are not on the grounds of~~ *held at* an overnight retreat facility
12 owned and operated by a county office of education ~~in a county~~
13 ~~of the 18th or 20th class or by a school district at times when pupils~~
14 ~~are not on the grounds.~~

15 (12) The grounds of the public schoolhouse on which the
16 alcoholic beverage is acquired, possessed, used, or consumed is
17 property that has been developed and is used for residential
18 facilities or housing that is offered for rent, lease, or sale
19 exclusively to faculty or staff of a public school or community
20 college.

21 (13) The grounds of a public schoolhouse on which the
22 alcoholic beverage is acquired, possessed, used, or consumed is
23 property of a community college that is leased, licensed, or
24 otherwise provided for use as a water conservation demonstration
25 garden and community passive recreation resource by a joint
26 powers agency comprised of public agencies, including the
27 community college, and the event at which the alcoholic beverage
28 is acquired, possessed, used, or consumed is conducted pursuant
29 to a written policy adopted by the governing body of the joint
30 powers agency and no public funds are used for the purchase or
31 provision of the alcoholic beverage.

32 (14) The alcoholic beverage is beer or wine acquired, possessed,
33 used, sold, or consumed only in connection with a course of
34 instruction, sponsored dinner, or meal demonstration given as part
35 of a culinary arts program at a campus of a California community
36 college and the person has been authorized to acquire, possess,
37 use, sell, or consume the beer or wine by the governing body or
38 other administrative head of the school.

39 (15) The alcoholic beverages are possessed, consumed, or sold,
40 pursuant to a license or permit obtained under this division for

1 special events held at the facilities of a public community college,
2 located in a county of the first class or a county of the fourth class,
3 during the special event. As used in this ~~subdivision~~ paragraph,
4 “special event” means festivals, shows, private parties, concerts,
5 theatrical productions, and other events held on the premises of
6 the public community college, pursuant to a license or permit, and
7 for which the principal attendees are members of the general public
8 or invited guests and not students of the public community college.

9 *(16) The alcoholic beverages are acquired, possessed, or used*
10 *during an event at a community college-owned facility in which*
11 *any grade from kindergarten to grade 12, inclusive, is schooled,*
12 *if the event is held at a time when students in any grades from*
13 *kindergarten to grade 12, inclusive, are not present at the facility.*
14 *As used in this paragraph, “events” include fundraisers held to*
15 *benefit a nonprofit corporation that has obtained a license pursuant*
16 *to this division for the event.*

17 (b) Any person convicted of a violation of this section shall, in
18 addition to the penalty imposed for the misdemeanor, be barred
19 from having or receiving any privilege of the use of public school
20 property which is accorded by Article 2 (commencing with Section
21 82537) of Chapter 8 of Part 49 of Division 7 of the Education Code.

22 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
23 *Section 25608 of the Business and Professions Code proposed by*
24 *both this bill and AB 1643. It shall only become operative if (1)*
25 *both bills are enacted and become effective on or before January*
26 *1, 2011, (2) each bill amends Section 25608 of the Business and*
27 *Professions Code, and (3) this bill is enacted after AB 1643, in*
28 *which case Section 1 of this bill shall not become operative.*

29 *SEC. 3. This act is an urgency statute necessary for the*
30 *immediate preservation of the public peace, health, or safety within*
31 *the meaning of Article IV of the Constitution and shall go into*
32 *immediate effect. The facts constituting the necessity are:*

33 *In order to increase revenue for events at outdoor education*
34 *facilities that expand students’ educational opportunities as soon*
35 *as possible, it is necessary that this act take effect immediately.*